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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,052	12/19/2000	Bruce Perlmutter	10360-079001/13361HUUS01U	4810
34645	7590	01/11/2008		
JOHN C. GORECKI, ESQ. P.O BOX 553 CARLISLE, MA 01741			EXAMINER DUONG, DUC T	
			ART UNIT 2619	PAPER NUMBER
			NOTIFICATION DATE 01/11/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

john@gorecki.us

**Office Action Summary**

Application No.

09/740,052

Applicant(s)

PERLMUTTER ET AL.

Examiner

Duc T. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 8, 2007 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 3-10, and 12-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-10, and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al (U.S. Patent 5,953,338) in view of Staples et al (US Publishing 2002/0118671 A1).

Regarding to claims 1 and 10, Ma discloses a system for managing bandwidth of a remote link in a virtual private network VPN 170 (Fig. 1) comprising a server 160 (Fig. 2 col. 7 lines 5-14), a contention pool 401 or 402 having a portion of the bandwidth for at

least one application group (Fig. 4A col. 11 lines 11-26), and a meter 145 for metering the packets belonging to the application group (col. 7 lines 20-38).

Ma fails to teach for the server is virtual private network VPN server configured to at least one authenticate, encapsulate, and de-encapsulate at least a portion of the packets.

However, Staples discloses a data communication system comprising a VPN server 122 for performing authentication of user and encryption of data (fig. 25B paragraph 0421).

Thus, it would have been obvious to a person of ordinary skill in the art to employ the server with VPN processing as taught by Staples in Ma's server. The motivation to do so would have been to enhance Ma's server functionality by providing authentication and encryption so that a higher level of security and quality of services can be achieved.

Regarding to claims 3 and 12, Ma discloses all the limitation with respect to claims 1 and 10 including the server is directly connected to other links 302 having larger bandwidth than the available bandwidth of the remote links 310-316 (Fig. 3 col. 9 lines 1-13).

Regarding to claims 4 and 13, Ma discloses the packets belonging to the application group (virtual path) share a pre-defined configuration (quality of service), and see col. 10 line 67 and col. 11 lines 1-2.

Regarding to claims 5 and 14, Ma discloses all the limitation with respect to claims 1 and 10 including the packets belonging to the application group contend equally for the portion of the bandwidth (Fig. 6 col. 11 lines 60-63).

Regarding to claims 6 and 15, Ma discloses the meter manages flow rate of the packets going through the server in either direction (Fig.1B col. 6 lines 5-19).

Regarding to claims 7 and 16, Ma discloses the meter rejects the packets if the flow rate exceeds the assigned portion of the bandwidth (col. 8 lines 1-12).

Regarding to claims 8 and 17, Ma discloses all the limitation with respect to claims 1 and 10 including a user interface (client) that allows a user to specify the bandwidth of the link (Fig. 6 col. 9 lines 25-32).

Regarding to claims 9 and 18, Ma discloses all the limitation with respect to claims 1 and 10 including a user interface (client) that allows a user to specify the assigned portion of the bandwidth (Fig. 6 col. 11 lines 66-67 and col. 8 lines 1-18).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DD  
DD

  
11/7/08  
**WING CHAN**  
**SUPERVISORY PATENT EXAMINER**